

Amendments to the Drawings:

The attached sheet of drawings includes a change to FIG. 1b. In amended FIG. 1b, bending direction "A" as recited in claim 1 has been shown. This sheet, which depicts FIG. 1b, replaces the sheet currently on file depicting FIG. 1b.

Attachment: One replacement sheet of drawings

REMARKS/ARGUMENTS

The claims are 1-10. Claim 1 has been amended to improve its form and to better define the invention. The specification has been amended to provide antecedent basis for "a bending direction" as requested by the Examiner and FIG. 1b has been amended to show bending direction "A". The specification has also been amended to correct British spellings noted therein. Support for the claims may be found, *inter alia*, in the disclosure at FIGS. 4-7. Reconsideration is expressly requested.

The drawings were objected to under 37 CFR 1.83(a) as failing to show "a bending direction" as recited in claim 1. In response, Applicants have amended FIG. 1b to show bending direction "A", which it is respectfully submitted overcomes the objection of the Examiner to the drawings on the basis of this informality.

The specification was objected to as lacking antecedent basis for "a bending direction". In response, Applicants have amended the specification and provides such antecedent basis,

which it is respectfully submitted likewise overcomes the Examiner's objection on this basis.

Claim 1 was objected to in that the Examiner wanted the second occurrence of "a biopsy cannula" in claim 1 changed to --the biopsy cannula--. In response, Applicants have amended claim 1, *inter alia*, as suggested by the Examiner.

Claims 1-4, 6, 7 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Burgio U.S. Patent No. 5,333,619* in view of *Miller et al. U.S. Patent No. 6,416,484*. The remaining claims 5 and 8-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Burgio* and *Miller et al.* and further in view of *Janese et al. U.S. Patent No. 4,781,202* (claims 8 and 10), or *Fukuda et al. U.S. Patent No. 6,322,581* (claim 5).

Essentially, the Examiner's position was that *Burgio* discloses the biopsy material holding device recited in the claims except for features which were considered disclosed by the secondary references or within the skill of the art.

The Examiner also indicated that the hinge portion of *Miller et al.* could be considered a wire under the broadest reasonable interpretation of a wire as a thin elongated piece of material.

In response, Applicants have amended claim 1, *inter alia*, to specify that the wire has a uniform round cross section between the pre-stress angle and the bevelling, which is apparent from FIGS. 4-7. FIGS. 6 and 7 show that the cross section of the wire is round and all other figures, and in particular FIGS. 4 and 5, show that the cross section of the wire is uniform between the pre-stress angle and the bevelling. Thus, it is respectfully submitted that Applicants' wire as recited in claim 1, as amended, is indeed a wire in the normal sense of the word, and that the Examiner's interpretation of the term "wire" as simply a thin elongated piece of material is excluded.

None of the cited references discloses or suggests a biopsy material holding device for a biopsy cannula including a wire with bevelling arranged at the wire tip, the wire being bent in a bending direction at a pre-stress angle arranged at the proximate end of the wire, and having a uniform round cross section between the pre-stress angle and the bevelling, with the bevelling facing

away from the bending direction so that the wire including the wire tip glides along the inner wall of the biopsy cannula when inserted into the biopsy cannula.

As the Examiner has recognized, the primary reference to *Burgio* fails to disclose or suggest this feature, and in fact the device of *Burgio* uses a thin plate 3, not a wire as recited in Applicants' claim 1 as amended.

The defects and deficiencies of the primary reference to *Burgio* were nowhere remedied by the secondary references. As discussed in Applicants' Amendment filed November 24, 2008, the distal part of the biopsy extractor disclosed in *Miller et al.* has a cutting tip in the form of a blade or shovel that is linked to the body portion by a narrow hinge, which it is respectfully submitted cannot be considered a wire as recited in Applicants' claim 1 as amended herein.

Although *Janese*, which is cited with respect to claims 8 and 10, discloses a biopsy holder in the form of a wire, the beveling at the end of *Janese* faces into the direction of beveling, not

away from the direction of bending as recited in Applicants' claim 1, as amended.

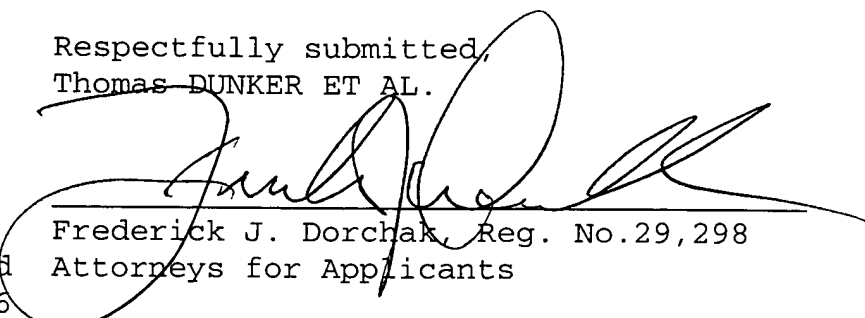
The remaining reference to *Fukuda et al.* cited with respect to dependent claim 5, has been considered but is believed to be no more relevant. There is no disclosure or suggestion of a biopsy material holding device having the structure recited in Applicants' claim 1 as amended, including a wire with beveling arranged at the wire tip, and being bent in a bending direction at a pre-stress angle arranged at the proximate end of the wire, with the bevelling facing away from the bending direction, so that the wire including the wire tip glides along the inner wall of the biopsy cannula when inserted into the biopsy cannula. Accordingly, it is respectfully submitted that claim 1 as amended, together with claims 2-10, which depend directly or indirectly thereon, are patentable over the cited references.

In summary, claim 1 has been amended, along with the specification and FIG. 1b of the drawings. In view of the foregoing, withdrawal of the final action and allowance of this

application are respectfully requested.

Respectfully submitted,
Thomas DUNKER ET AL.

COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576
(516) 365-9802
FJD:djp


Frederick J. Dorchak, Reg. No. 29,298
Attorneys for Applicants

Enclosures: Appendix - 1 replacement sheet of drawings

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 15, 2009.


Amy Klein

R:\Patents\D\DUNKER, T. ET AL - 1 PCT\RCE\Final Amendment.wpd

APPENDIX